

the law as it existed immediately before that date, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect September 1, 2011.

Passed the Senate on April 13, 2011: Yeas 31, Nays 0; passed the House on May 23, 2011: Yeas 142, Nays 0, one present not voting.

Approved June 17, 2011.

Effective September 1, 2011.

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## CHAPTER 1343

### S.B. No. 1308

#### AN ACT

relating to the standards for attorneys representing indigent defendants in capital cases.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Article 26.052, Code of Criminal Procedure, is amended by amending Subsection (d) and adding Subsection (n) to read as follows:

(d)(1) The committee shall adopt standards for the qualification of attorneys to be appointed to represent indigent defendants in capital cases in which the death penalty is sought.

(2) The standards must require that a trial attorney appointed as lead counsel to a capital case:

(A) be a member of the State Bar of Texas;

(B) exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases;

(C) have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case, *unless the local selection committee determines under Subsection (n) that the conduct underlying the finding no longer accurately reflects the attorney's ability to provide effective representation;*

(D) have at least five years of criminal law experience;

(E) have tried to a verdict as lead defense counsel a significant number of felony cases, including homicide trials and other trials for offenses punishable as second or first degree felonies or capital felonies;

(F) have trial experience in:

(i) the use of and challenges to mental health or forensic expert witnesses; and

(ii) investigating and presenting mitigating evidence at the penalty phase of a death penalty trial; and

(G) have participated in continuing legal education courses or other training relating to criminal defense in death penalty cases.

(3) The standards must require that an attorney appointed as lead appellate counsel in the direct appeal of a capital case:

(A) be a member of the State Bar of Texas;

(B) exhibit proficiency and commitment to providing quality representation to defendants in death penalty cases;

(C) have not been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of any capital case, *unless the local selection committee determines under Subsection (n) that the conduct underlying the finding no longer accurately reflects the attorney's ability to provide effective representation;*

(D) have at least five years of criminal law experience;

(E) have authored a significant number of appellate briefs, including appellate briefs for homicide cases and other cases involving an offense punishable as a capital felony or a felony of the first degree or an offense described by Section 3g(a)(1), Article 42.12;

(F) have trial or appellate experience in:

- (i) the use of and challenges to mental health or forensic expert witnesses; and
- (ii) the use of mitigating evidence at the penalty phase of a death penalty trial; and

(G) have participated in continuing legal education courses or other training relating to criminal defense in appealing death penalty cases.

(4) The committee shall prominently post the standards in each district clerk's office in the region with a list of attorneys qualified for appointment.

(5) Not later than the second anniversary of the date an attorney is placed on the list of attorneys qualified for appointment in death penalty cases and each year following the second anniversary, the attorney must present proof to the committee that the attorney has successfully completed the minimum continuing legal education requirements of the State Bar of Texas, including a course or other form of training relating to criminal defense in death penalty cases or in appealing death penalty cases, as applicable. The committee shall remove the attorney's name from the list of qualified attorneys if the attorney fails to provide the committee with proof of completion of the continuing legal education requirements.

*(n) At the request of an attorney, the local selection committee shall make a determination under Subsection (d)(2)(C) or (3)(C), as applicable, regarding an attorney's current ability to provide effective representation following a judicial finding that the attorney previously rendered ineffective assistance of counsel in a capital case.*

SECTION 2. The change in law made by this Act applies to an attorney who, before, on, or after the effective date of this Act, has been found by a federal or state court to have rendered ineffective assistance of counsel during the trial or appeal of a capital case.

SECTION 3. A local selection committee shall amend its standards as necessary to conform with the requirements of Subsection (n), Article 26.052, Code of Criminal Procedure, as added by this Act, not later than the 30th day after the effective date of this Act.

SECTION 4. This Act takes effect September 1, 2011.

Passed the Senate on April 5, 2011: Yeas 31, Nays 0; passed the House on May 23, 2011: Yeas 142, Nays 0, one present not voting.

Approved June 17, 2011.

Effective September 1, 2011.

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## CHAPTER 1344

### S.B. No. 1378

#### AN ACT

relating to the authority of the Alabama-Coushatta Indian Tribe to commission peace officers.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.126 to read as follows:

*Art. 2.126. PEACE OFFICERS COMMISSIONED BY THE ALABAMA-COUSHATTA INDIAN TRIBE. (a) The tribal council of the Alabama-Coushatta Indian Tribe is authorized to employ and commission peace officers for the purpose of enforcing state law within the boundaries of the tribe's reservation.*

*(b) Within the boundaries of the tribe's reservation, a peace officer commissioned under this article:*

- (1) is vested with all the powers, privileges, and immunities of peace officers;*